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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,363	10/30/2003	Wayne H. Hanson	1-24778	7882
4859 7590 05/01/2008 MACMILLAN SOBANSKI & TODD, LLC ONE MARITIME PLAZA FIFTH FLOOR 720 WATER STREET TOLEDO, OH 43604-1619				
EXAMINER				
IDELL, JOSEPH T				
ART UNIT		PAPER NUMBER		
3636				
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05/01/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/697,363

**Applicant(s)**

HANSON ET AL.

**Examiner**

Joseph F. Edell

**Art Unit**

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3, 4, 6, 14, 15, 20-25 and 27 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 3, 4, 6, 14, 15, 20-25 and 27 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/888)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3, 4, 20-23, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,488,332 B1 to Markwald in view of U.S. Patent No. 6,086,086 to Hanson et al.

Markwald discloses a seating system that is basically the same as that recited in claims 3, 4, 20-23, and 27 except that the base lacks a tilt-in-space block and the system lacks a seating shell base with a pivot post, as recited in the claims. See Figure 1 of Markwald for the teaching that the seating system has a base 4, a seat tray 7, a sliding mechanism 17 configured to mount the seat tray and limits sliding movement of the seat tray to substantially horizontal movement, a seat back 8 pivotally mounted relative to the seat tray at a seat back pivot point, a leg support 10 pivotally mounted with respect to the seat and depending from the seat tray, and a biasing element 14 connected relative to the base and the seat tray and configured to store energy and have a damping effect upon application of force by a user to move the seat tray forward and a configured to release energy when the user relaxes to automatically move the seat tray rearward wherein the sliding mechanism is configured with sufficiently low

friction to enable the user to experience extension tone with little resulting resistance to the forward movement of the seat tray and little resulting resistance to pivoting of the leg support, and the seating system is configured for forward movement of the seat tray and pivoting of the leg support caused by tone extension of the user without requiring manual operation (see column 4, lines 3-36).

Hanson et al. show a seating system similar to that of Markwald wherein the seating system has a seat cushion (see column 3, lines 12-13) positioned in a seating shell base 82 (see Fig. 10) that is provided with a pivot post 62 and a guide pin 63, a back rest shell 90 (see Fig. 1) slidably engaging an inner shell 98, a base 12 (Fig. 2) with a tilt-in-space block 34 including a guide slot 58 configured to receive the guide pin such that the guide slot is T-shaped with a straight upper portion and an arcing lower portion, and a pivot post cradle at an uppermost portion of the guide slot. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seating system of Markwald such that the seat tray is positioned in a seating shell base that is provided with a pivot post and a guide pin, the back rest has an inner sliding shell, and the base includes a tilt-in-space block with a guide slot configured to receive the guide pin wherein the guide slot is T-shaped with a straight upper portion and an arcing lower portion, and a pivot post cradle located at an uppermost portion of the guide slot, such as the seating system disclosed by Hanson et al. One would have been motivated to make such a modification in view of the suggestion in Hanson et al. that the seating shell base and tilt-in-space block in the

base configuration allows the seat tray to be tiltable relative to the base, and the sliding back rest inner shell provides height adjustment.

3. Claims 6, 14, 15, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markwald in view Hanson et al. applied to claims 3, 4, 20-23, and 27 above, and further in view of U.S. Patent No. 327,775 to Dodge.

Markwald discloses a seating system that is basically the same as that recited in claims 6, 14, 15, 24, and 25 except that the seat back lacks a back support member moving downward and a locking mechanism, as recited in the claims. See Figures 1 and 2 of Markwald for the teaching that the seat back is connected to a back support member pivotally connecting the seat back to the base. Dodge shows a seating system similar to that of Markwald wherein the seating system has a base *E* (see Fig. 1), a seat back *A* connected to a back support member *H* such that downward movement of the back support member in a substantially vertical direction causes the seat back to pivot at the seat tray to recline the seat back, and a locking mechanism *a* supported with respect to the base. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seating system of Markwald such that the seat back is connected to a back support member wherein downward movement of the back support member in a substantially vertical direction with respect to the base causes the seat back to pivot at the seat tray to recline the seat back and causing the seat tray to slide forward with respect to the base, and a locking mechanism supported with respect to the base. One would have been motivated to make such a

modification in view of the suggestion in Dodge that the seat back configuration provides a slideably adjustable seat back that is removably coupled to the base.

### ***Response to Arguments***

4. Applicant's arguments filed 22 January 2008 have been fully considered but they are not persuasive. Applicant argues that the configuration of Markwald precludes the guide from being configured to mount the seat surface for forward and rearward sliding movement in a single plane, as recited in amended claims 20 and 22. Please note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. With respect to Markwald, the seat tray is capable of forward and rearward movement in a single plane when the seat tray is moved only slightly fore and aft prior to reaching the fully extending position of Figure 2. Moreover, the combination of Markwald in view of Hanson et al. teach a seat tray capable of forward and rearward movement in a single plane when the seat back is pivotally mounted to slide relative to the back rest shell such that no tilting of the seat tray needs to occur. Moreover, Applicant argues that the seating system of Markwald does not teach or suggest that the pivot points are positioned at the anatomical hip and knee of the user, as recited in claims 20 and 22. Again, this refers to functional language that does not patentably distinguish the claimed invention from the seating system of Markwald in view of Hanson et al. Please note that Markwald in view of

Hanson et al. teach all the structural limitations of claims 20 and 22. The combination of Markwald in view of Hanson et al. is capable of being positioned at the anatomical hip and knee of a user as Hanson et al. specifically teach the desirability of placing pivot points at the anatomical correct hip and knee locations (see columns 8, lines 30-42). Lastly, this functional language is exceedingly broad as the location corresponding to a user's hip and knee varies depending on the size of the user. If Applicant argues that such functional language results in a structural difference from the seating system of Markwald in view of Hanson et al., a rejection under 35 U.S.C. § 112, second paragraph, may be appropriate for the claimed being indefinite.

With respect to claims 3 and 23, Applicant argues that the seat tray of Markwald in view of Hanson et al. is not limited to a substantially horizontal movement because the seat tray of Markwald has both horizontal and vertical components of movement. Please note that substantially horizontal movement is broader than horizontal movement. Therefore, a seat tray that has some movement beyond horizontal movement would meet this limitation. Because the seat tray of Markwald, alone or in combination, has movement primarily in the horizontal direction, Markwald in view of Hanson et al. teach all the limitations of claims 3 and 23.

With respect to claims 6, 14, 15, 24, and 25, Applicant argues that Markwald, as modified, in view of Dodge does not teach or suggest that the downward movement of the shaft can cause a seat tray to slide forward with respect to the base. Applicant's argument primarily rests on the deficiencies of the individual references. However, one cannot show nonobviousness by attacking references individually where

the rejections are based on combinations of references. Markwald teaches the interplaying relationship of the seat back and seat tray wherein the seat tray slides forward due to corresponding movement of the seat back. Please note that Hanson et al. separately teach the desirability of the seat back moving downward. Moreover, Dodge teaches the desirability of a downward moving seat back with a corresponding locking mechanism. See the above rejection for motivation to combine the teachings of Markwald, as modified, in view of Dodge.

Upon consideration of Applicant's arguments, Examiner maintains the rejections of claims 3, 4, 6, 14, 15, 20-25, and 27.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/  
Primary Examiner, Art Unit 3636  
May 2, 2008